

Iowa Department of Natural Resources
Natural Resource Commission

ITEM

21

DECISION

TOPIC Chapter 15, General License Regulations – Notice of Intended Action

The Department requests Commission approval of the proposed changes to clarify what additional information may be sought by the department to determine residency status of license applicants and license holders and provide a process for suspension and revocation of licenses that are not properly obtained.

Robert Garrison, Law Enforcement Bureau Chief
Conservation and Recreation Division
April 8, 2010

Attachment: Chapter 15, General License Regulations – NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 15, “General License Regulations,” Iowa Administrative Code.

The proposed changes clarify what additional information may be sought by the Department to determine residency status of license applicants and license holders, and provide a process for suspension and revocation of licenses not properly obtained.

Any interested person may make written suggestions or comments on the proposed amendment on or before May 25, 2010. Such written materials should be directed to Mark Sedlmayr, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794; or E-mail mark.sedlmayr@dnr.iowa.gov. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at (712)769-2587.

Also, there will be a public hearing on May 25, 2010, at 1 p.m. in the Fifth Floor East Conference Room, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who attend the public hearing and have special needs such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 483A.

The following amendments are proposed.

ITEM 1. Amend rule 571—15.2(483A) by adopting the following new definitions in alphabetical order:

“Immediate family member” means the spouse, a domestic partner, and all minor children of the licensee or person seeking a license.

“Nonresident” means a person who is not a resident as defined in Iowa Code 483A.1A(7).

“Principal and primary residence or domicile” means the place that meets the definition of principal or primary residence or domicile as defined in Iowa Code 483A.1A (6B). Relevant factors used to determine a person’s principal and primary residence or domicile include the following:

a. Proof of place of employment, which must include the address of the person’s place of employment or business, including the area or region where a majority of the person’s work is performed.

b. Physical address, which shall be the person’s 911 address(es) or the address of an immediate family member. A post office box or a forwarded address shall not be accepted by the department to verify the person’s principal and primary residence or domicile.

c. Utility records, which must include the person’s name and be associated with the physical address provided for as the person’s principal and primary residence or domicile. The types of records that may be submitted include rental and lease documents; and telephone, cellular phone, electricity, water, sewer, cable or satellite television, and any other utility records.

d. Real estate records, which would include legal documents showing ownership or leasehold interests of any and all real estate related to the physical address used by the department to verify the person’s principal and primary residence or domicile. These records should also provide the time period of such ownership or rental.

e. Vehicle registration(s) for any vehicles owned or leased by the person and immediate family members.

f. Portion of federal, state or local income tax returns filed during the relevant time period showing the address provided on those forms by the person.

j. Documentation of homestead tax exemption allowed to the person or immediate family members for all states such exemption is allowed.

n. Documentation of any co-inhabitants, other than person’s immediate family members, that use the same principle and primary residence or domicile.

“Resident” means a person who meets the definition of a resident as defined in Iowa Code 483A.1A(7).

ITEM 2. Adopt the following new rules 571—15.9(483A), 571—15.10(483A) and 571—15.11(483A):

571--15.9(483A) Proof of residency required. The department shall have the authority to require persons applying for or who have received resident licenses to provide additional information to determine the person’s principal and primary residence or domicile and residency status. Whether a person was issued resident or non-resident licenses by the department in previous years shall not be a determining factor of residency. Persons required to provide this additional information under this rule shall be notified in writing by the department and shall have sixty days to submit all required information to the department.

571--15.10(483A) Residency status determination. Upon receiving information requested by the person, the department may determine whether the person is a resident or a non-resident for purposes of these rules and chapter 483A of the Iowa Code. If the department changes the residency classification of the person, the department shall notify the person of its decision in writing and the person shall be classified accordingly by the department for all licensing requirements unless or until the person's principal and primary residence or domicile changes or the person is otherwise successful under these rules in modifying that classification.

571--15.11(483A) Suspension and revocation of licenses when nonresidents obtain resident licenses.

15.11(1) If the department finds that a nonresident has obtained a resident license, the department shall provide written notice of intent to revoke and suspend hunting, fishing, or trapping licenses as provided in 571—Chapter 7. If the person requests a hearing, it shall be conducted in accordance with 571—Chapter 7. If the department finds that a nonresident has obtained a resident license fraudulently or through intentional misrepresentation, the person shall be guilty of a simple misdemeanor, punishable as a schedule violation under section 805.8B of the Iowa Code.

15.11(2) Dates of suspension or revocation. The suspension or revocation shall be effective upon failure of the person to request a hearing within 30 days of the notice described in 15.16(6) or upon issuance of an order affirming the department's intent to suspend or revoke the license after the hearing. The person shall immediately surrender all licenses and shall not apply for or obtain new licenses for the full term of the suspension or revocation.

15.11(3) Magistrate authority. Nothing in this chapter shall limit the magistrate authority as described in Iowa Code section 483A.21 to suspend or revoke licenses.

ITEM 5. Modify the reservation paragraph as follows:

571—15.9 12(483A) to 571--15.15(483A) Reserved.

DATE

Richard A. Leopold, Director